E COPY

Office - Supreme Court
NOV 29 19
HAROLD B. WILLEY

IN THE

Supreme Court of the United States

OCTOBER TERM, 1954.

No. 427

C. R. BARNES, ET AL.,

Petitioners,

vs.

THE AKRON, CANTON & YOUNGSTOWN RAILROAD COMPANY, ET AL.,

Respondents.

REPLY BRIEF IN SUPPORT OF PETITION FOR CERTIORARI.

ALEX ELSON,
11 South LaSalle Street,
Chicago 3, Illinois,

LESTER P. SCHOENE,
MILTON KRAMER,
1625—K Street, N. W.,
Washington 6, D. C.,

CLARENCE M. MULHOLLAND,
EDWARD J. HICKEY, JR.,
620 Tower Building,
Washington 5, D. C.,
Attorneys for Petitioners.

Of Counsel:
SCHOENE and KRAMER,
1625—K Street, N. W.,
Washington 6, D. C.,

MULHOLLAND, ROBIE & HICKEY,
620 Tower Building,
Washington 5, D. C.

THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO 38

the plaintiff railroads intend to join in the voluntary dismissal of the complaint under Rule 41 (a) upon the return of the case to the District Court. (Respondents' brief, p. 5.)

The developments which have taken place subsequent to the decision below and the plaintiffs' announced determination to voluntarily dismiss the complaint, stated for the first time in the respondents' brief, makes it apparent that this case has become moot since the decision of the Court below.

Therefore, in accordance with the established practice of this Court, the Petition for Writ of Certiorari should be granted, the judgment of the Court of Appeals should be vacated and the cause remanded to the District Court with directions to vacate its orders and to dismiss the proceeding upon the ground that the cause is moot. *Securities and Exchange Commission* v. *Harrison*, 340 U. S. 908 and *U. S.* v. *Munsingwear*, 340 U. S. 36, 39, 40.

Respectfully submitted,

ALEX ELSON,
11 South LaSalle Street,
Chicago 3, Illinois,

LESTER P. SCHOENE,
MILTON KRAMER,
1625—K Street, N. W.,
Washington 6, D. C.,

CLARENCE M. MULHOLLAND,
EDWARD J. HICKEY, JR.,
620 Tower Building,
Washington 5, D. C.,
Attorneys for Petitioners.

Of Counsel:
SCHOENE and KRAMER,
1625—K Street, N. W.,
Washington 6, D. C.,

MULHOLLAND, ROBIE & HICKEY,
620 Tower Building,
Washington 5, D. C.

POOR COPY